

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5382, 5383 and 6153 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

NAGADHRA VIBHAG VIVIDH

KARYAKARI SAHKARI MANDLI LTD.

Versus

CHIEF DIVISIONAL OFFICER

Appearance:

NANAVATY ADVOCATES for Petitioner

MR GN SHAH for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 16/09/1999

ORAL JUDGEMENT

Since common questions are involved in this group of three petitions under Article 226 of the Constitution, they are being disposed of by this common judgment.

Rule in each petition, service which is waived by Mr G.N.Shah for the respondent. Upon consensus, this group of three petitions is taken up for final hearing today.

Consensus is not always a rarity in all judicial adjudications for resolving disputes between the parties and this group of three petitions is one of such cases. Therefore, upon consensual statement, this group of three petitions is squarely covered by various decisions of this Court and some of them are as follows:

1. Decision of a Division Bench of this Court in LPA No.444/99 dated 16.7.99.
2. Decision of this Court in SCA No.2415/99 and other allied matters, decided by this court on 23.7.99.

The petitioners in this group of petitions have contended to be the holders of diesel pumps popularly known as consumer pumps. The petitioners have sought direction against the respondent not to discontinue the supply of high speed diesel at the consumers pumps of the petitioners, elaborately, stated in the respective petitions.

As stated earlier hereinabove, identical questions have been resolved and adjudicated upon by this Court in the aforesaid decisions about which there is no dissent. Thus, the main issue in focus in this group of petitions has already been adjudicated upon and a copy of the decision of the Division Bench of this Court referred to hereinabove is placed. After having considered the joint statement and the decisions of this Court, there appears to be no other material requiring a different view in this group of petitions.

In view of the peculiar facts and special circumstances and following the decisions of this Court referred to hereinabove, it is expedient to direct the respondent Company to continue to supply the high speed diesel within a spell of two weeks from today and, obviously, the petitioners shall follow and abide by the same directions and conditions enumerated in the earlier decisions of this Court, which are as follows:

- (1) Consumer pumps must execute consumer pump agreements as per the standard format. In case it is not done within one month, they will not be entitled to supply of petroleum products from the concerned oil Company and the concerned Oil Company will not supply petroleum products to the consumer.
- (2) The consumer pumps which are public trust will be

converted into cooperative societies within two months, failing which they will not be entitled to any supplies of petroleum products and the concerned Oil Company will not supply petroleum products to the consumer pump till such conversion takes place.

(3) The consumer pumps will give an undertaking to the High Court to the following effect:

(i) They will take only genuine agriculturists, farmers as members and petroleum products will be sold to them only.

(ii) The consumer pump will, if required by the concerned Oil Company, change the layout format/get up of the consumer pump, if so desired by the concerned Oil Company, to distinguish it from a retail outlet.

(4) In the event of breach of any of the conditions, concerned consumer pump will not be entitled to the supply of petroleum products. The concerned Oil Company will not supply petroleum products pending an inquiry into the breach of the conditions committed by the consumer pumps.

(5) Those consumer pumps which, though sanctioned, have not been commissioned, will be commissioned by the concerned Oil Company after the receipt of the approval from the appropriate authority.

The petitioners are directed to file undertaking in the aforesaid terms in this Court in favour of the Registrar within a period of two weeks from today.

In the result, all the three petitions shall stand allowed to that extent. Rule is made absolute in each of the petitions accordingly, however, without any order as to costs.

Direct service is permitted.

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